

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

**UNITED STATES OF AMERICA** §  
§  
**VS.** § **CAUSE NO. 4:17CR1**  
§  
**FEISHENG LIANG (1)** §

**DEFENDANT'S MOTION TO DISMISS**

**TO THE HONORABLE JUDGE OF SAID COURT:**

The defendant, FeiSheng Liang, by and through his attorney of record, Matthew Hamilton, hereby moves this Honorable Court for an order to dismiss the indictment on this case, based on the following facts:

**I. FACTS**

On November 24<sup>th</sup>, 2016 USCGC Hamilton identified a “Target of Interest.” (TOI). The TOI was a vessel called Yue Shan Wei Yu. Yue Shan Wei Yu was a flagged vessel out of China with all markings, letterings, and any other type of notification required to put individuals on notice that it is a Chinese Vessel. The vessel was destined for a harbor in China and originated in China.

Prior to boarding, the Coast Guard requested permission from China to stop, board, and search the flag state vessel. Later on the 24<sup>th</sup>, a crew of United States Coast Guard Officers boarded and searched the vessel. The boarding, search, and detention by the United States Coast Guard occurred prior to China responding to the United States' request. Eventually, seven (7) individuals were located on the TOI and were detained. The seven individuals consisted of six (6) Chinese

Nationals and one (1) Colombian national. The seven individuals have had no contact with the United States.

On December 1, 2016 the United States Coast Guard sunk the Yue Shan Wei Yu. On December 23, 2016 People's Republic of China consented for the United States to have authority over TOI.

## **II. MOTION TO DISMISS**

The Government has destroyed evidence critical to the defense of this case.

The Government sunk and destroyed the Yue Shan Wei Yu. It was sunk after the Coast Guard was made aware that it contained exculpatory evidence. Because the United States Government destroyed exculpatory evidence, Defendant is deprived of Due Process and cannot be afforded a fair trial under the laws of the United States Constitution.

Furthermore, the actions of the United States Coast Guard were without consent of the flag nation, China. Therefore, the United States Coast Guard and this Honorable Court does not have jurisdiction to proceed with action against Mr. Liang.

**WHEREFORE, PREMISES CONSIDERED**, the Defendant requests that this Motion to Dismiss be granted.

Respectfully submitted,

*/S/ Matthew D. Hamilton*

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**CERTIFICATE OF SERVICE**

This is to certify that on the 6<sup>th</sup> day of July, 2018, a true and correct copy of the above and foregoing Motion was filed electronically, and through that system, all parties, including Jay Combs, the Assistant United States Attorney handling this case, have had this Motion forwarded to them.

*/S/ Matthew D. Hamilton*

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Matthew D. Hamilton

**CERTIFICATE OF CONFERENCE**

I certify that on July 6, 2018, contact was made with counsel for the United States, Jay Combs.

*/S/ Matthew D. Hamilton*

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Matthew D. Hamilton